

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2289

Introduced by Assembly Member Daly

February 21, 2014

An act to amend Sections 25620, 31116, and 31121 of, and to add Section 31158 to, the Corporations Code, and to amend Sections 12201, 17201, 22101, and 23005 of the Financial Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, as amended, Daly. Business filings.

(1) The Corporate Securities Law of 1968 authorizes the Commissioner of Business Oversight to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

This bill would provide additional examples of what meets the definition of an “electronic record.”

(2) The Franchise Investment Law generally provides for the regulation of the offer and sale of franchises by the Commissioner of Business Oversight. The law specifically provides that the registration of the offer of franchises automatically becomes effective at noon on the 15th business day after the filing of the application for registration or the last amendment, except as specified.

This bill would instead provide that the offer automatically becomes effective on the 30th day after the filing of a complete application, similarly extend the time for a renewal of an offer, as specified, and define terms for these purposes. This bill would authorize the

commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(3) The Check Sellers, Bill Payers and Proraters Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in business under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(4) The Escrow Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as an escrow agent under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(5) The California Finance Lenders Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as a finance lender or broker under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(6) The California Deferred Deposit Transaction Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in the businesses of offering, making, or arranging a deferred deposit transaction, as specified.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25620 of the Corporations Code is
2 amended to read:
3 25620. (a) Notwithstanding any other law, the commissioner
4 may by rule or order prescribe circumstances under which to accept
5 electronic records or electronic signatures. This section shall not

1 require the commissioner to accept electronic records or electronic
2 signatures.

3 (b) For purposes of this section, the following terms have the
4 following meanings:

5 (1) “Electronic record” means a record created, generated, sent,
6 communicated, received, or stored by electronic means. “Electronic
7 record” also includes, but is not limited to, all of the following:

8 (A) An application, amendment, supplement, and exhibit, filed
9 for any qualification, registration, order, permit, certificate, license,
10 consent, or other authority.

11 (B) A financial statement, reports, or advertising.

12 (C) An order, permit, certificate, license, consent, or other
13 authority.

14 (D) A notice of public hearing, accusation, and statement of
15 issues in connection with any application, qualification,
16 registration, order, permit, certificate, license, consent, or other
17 authority.

18 (E) A proposed decision of a hearing officer and a decision of
19 the commissioner.

20 (F) The transcripts of a hearing.

21 (G) A release, newsletter, interpretive opinion, determination,
22 or specific ruling.

23 (H) Correspondence between a party and the commissioner
24 directly relating to any document listed in subparagraphs (A) to
25 (G), inclusive.

26 (2) “Electronic signature” means an electronic sound, symbol,
27 or process attached to or logically associated with an electronic
28 record and executed or adopted by a person with the intent to sign
29 the electronic record.

30 (c) The Legislature finds and declares that the Department of
31 Business Oversight has continuously implemented methods to
32 accept records filed electronically, including broker-dealer and
33 investment adviser applications, and is encouraged to continue to
34 expand its use of electronic filings to the extent feasible, as budget,
35 resources, and equipment are made available to accomplish that
36 goal.

37 SEC. 2. Section 31116 of the Corporations Code is amended
38 to read:

39 31116. (a) Except as provided in subdivision (b), if no stop
40 order under Section 31115 is in effect under this law, registration

1 of the offer of franchises automatically becomes effective at 12
2 o'clock noon, California time, of the 30th business day after the
3 filing of a complete application for registration or the last
4 preeffective amendment thereto, or at such earlier time as the
5 commissioner determines.

6 (b) With respect to any application for registration or the last
7 amendment thereto filed between January 1, 1971, and March 15,
8 1971, if no stop order under Section 31115 is in effect under this
9 law, registration becomes effective on April 15, 1971; with respect
10 to any application filed after March 15, 1971 and before May 10,
11 1971, if no stop order under Section 31115 is in effect under this
12 law, registration becomes effective on June 1, 1971, or the 15th
13 business day after the filing, whichever is the later, or at such
14 earlier time as the commissioner determines.

15 (c) For purposes of this section, "complete application" means
16 an application that contains the appropriate filing fee, Uniform
17 Franchise Disclosure Document, and all additional exhibits,
18 including financial statements in conformity with regulations of
19 the commissioner. "Preeffective amendment" means an amendment
20 to an application that is filed before the effective date of the
21 registration of the sale of franchises.

22 SEC. 3. Section 31121 of the Corporations Code is amended
23 to read:

24 31121. (a) The registration may be renewed for additional
25 periods of one year each, unless the commissioner by rule or order
26 specifies a different period, by submitting to the commissioner a
27 renewal application before the expiration of the registration. If no
28 stop order or other order under Section 31115 is in effect under
29 this law, registration of the offer of the franchises automatically
30 becomes renewed effective at 12 o'clock noon, California time, of
31 the 30th business day after the filing of a complete application for
32 registration or the last preeffective amendment or at such earlier
33 time as the commissioner determines.

34 (b) For purposes of this section, "complete application" means
35 an application that contains the appropriate filing fee, Uniform
36 Franchise Disclosure Document, and all additional exhibits,
37 including financial statements in conformity with regulations of
38 the commissioner. "Preeffective amendment" means an amendment
39 to an application that is filed before the effective date of the
40 registration of the sale of franchises.

1 SEC. 4. Section 31158 is added to the Corporations Code, to
2 read:

3 31158. (a) Notwithstanding any other law, the commissioner
4 may by rule or order prescribe circumstances under which to accept
5 electronic records or electronic signatures. This section shall not
6 require the commissioner to accept electronic records or electronic
7 signatures.

8 (b) For purposes of this section, the following terms have the
9 following meanings:

10 (1) "Electronic record" means an initial registration application,
11 registration renewal statement, preeffective amendment,
12 posteffective amendment, or material modification and any other
13 record created, generated, sent, communicated, received, or stored
14 by electronic means. "Electronic record" also includes, but is not
15 limited to, all of the following:

16 (A) An application, amendment, supplement, and exhibit, filed
17 for any registration, order, license, consent, or other authority.

18 (B) A financial statement, reports, or advertising.

19 (C) An order, license, consent, or other authority.

20 (D) A notice of public hearing, accusation, and statement of
21 issues in connection with any application, registration, order,
22 license, consent, or other authority.

23 (E) A proposed decision of a hearing officer and a decision of
24 the commissioner.

25 (F) The transcripts of a hearing.

26 (G) A release, newsletter, interpretive opinion, determination,
27 or specific ruling.

28 (H) Correspondence between a party and the commissioner
29 directly relating to any document listed in subparagraphs (A) to
30 (G), inclusive.

31 (2) "Electronic signature" means an electronic sound, symbol,
32 or process attached to or logically associated with an electronic
33 record and executed or adopted by a person with the intent to sign
34 the electronic record.

35 (c) The Legislature finds and declares that the Department of
36 Business Oversight has continuously implemented methods to
37 accept records filed electronically, including broker-dealer and
38 investment adviser applications, and is encouraged to continue to
39 expand its use of electronic filings to the extent feasible, as budget,

1 resources, and equipment are made available to accomplish that
2 goal.

3 SEC. 5. Section 12201 of the Financial Code is amended to
4 read:

5 12201. (a) An application for a license shall be in writing,
6 under oath, and in a form prescribed by the commissioner and shall
7 contain the name, and the address both of the residence and place
8 of business, of the applicant and if the applicant is a partnership
9 or association, of every member thereof, and if a corporation, of
10 every officer and director thereof.

11 (b) Notwithstanding any other law, the commissioner may by
12 rule or order prescribe circumstances under which to accept
13 electronic records or electronic signatures. This section shall not
14 require the commissioner to accept electronic records or electronic
15 signatures.

16 (c) For purposes of this section, the following terms have the
17 following meanings:

18 (1) "Electronic record" means an initial license application, or
19 material modification of that license application, and any other
20 record created, generated, sent, communicated, received, or stored
21 by electronic means. "Electronic record" also includes, but is not
22 limited to, all of the following:

23 (A) An application, amendment, supplement, and exhibit, filed
24 for any license, consent, or other authority.

25 (B) A financial statement, reports, or advertising.

26 (C) An order, license, consent, or other authority.

27 (D) A notice of public hearing, accusation, and statement of
28 issues in connection with any application, license, consent, or other
29 authority.

30 (E) A proposed decision of a hearing officer and a decision of
31 the commissioner.

32 (F) The transcripts of a hearing.

33 (G) A release, newsletter, interpretive opinion, determination,
34 or specific ruling.

35 (H) Correspondence between a party and the commissioner
36 directly relating to any document listed in subparagraphs (A) to
37 (G), inclusive.

38 (2) "Electronic signature" means an electronic sound, symbol,
39 or process attached to or logically associated with an electronic

1 record and executed or adopted by a person with the intent to sign
2 the electronic record.

3 (d) The Legislature finds and declares that the Department of
4 Business Oversight has continuously implemented methods to
5 accept records filed electronically, and is encouraged to continue
6 to expand its use of electronic filings to the extent feasible, as
7 budget, resources, and equipment are made available to accomplish
8 that goal.

9 SEC. 6. Section 17201 of the Financial Code is amended to
10 read:

11 17201. (a) An application for a license as an escrow agent
12 shall be in writing and in such form as is prescribed by the
13 commissioner. The application shall be verified by the oath of the
14 applicant.

15 (b) Notwithstanding any other law, the commissioner may by
16 rule or order prescribe circumstances under which to accept
17 electronic records or electronic signatures. This section shall not
18 require the commissioner to accept electronic records or electronic
19 signatures.

20 (c) For purposes of this section, the following terms have the
21 following meanings:

22 (1) "Electronic record" means an initial license application, or
23 material modification of that license application, and any other
24 record created, generated, sent, communicated, received, or stored
25 by electronic means. "Electronic records" also includes, but is not
26 limited to, all of the following:

27 (A) An application, amendment, supplement, and exhibit, filed
28 for any order, license, consent, or other authority.

29 (B) A financial statement, reports, or advertising.

30 (C) An order, license, consent, or other authority.

31 (D) A notice of public hearing, accusation, and statement of
32 issues in connection with any application, registration, order,
33 license, consent, or other authority.

34 (E) A proposed decision of a hearing officer *and a decision of*
35 *the commissioner*.

36 (F) The transcripts of a hearing and correspondence between a
37 party and the commissioner directly relating to the record.

38 (G) A release, newsletter, interpretive opinion, determination,
39 or specific ruling.

1 (H) Correspondence between a party and the commissioner
2 directly relating to any document listed in subparagraphs (A) to
3 (G), inclusive.

4 (2) “Electronic signature” means an electronic sound, symbol,
5 or process attached to or logically associated with an electronic
6 record and executed or adopted by a person with the intent to sign
7 the electronic record.

8 (d) The Legislature finds and declares that the Department of
9 Business Oversight has continuously implemented methods to
10 accept records filed electronically, and is encouraged to continue
11 to expand its use of electronic filings to the extent feasible, as
12 budget, resources, and equipment are made available to accomplish
13 that goal.

14 SEC. 7. Section 22101 of the Financial Code is amended to
15 read:

16 22101. (a) An application for a license as a finance lender or
17 broker under this division shall be in the form and contain the
18 information that the commissioner may by rule or order require
19 and shall be filed upon payment of the fee specified in Section
20 22103.

21 (b) Notwithstanding any other law, an applicant who does not
22 currently hold a license as a finance lender or broker under this
23 division shall furnish, with his or her application, a full set of
24 fingerprints and related information for purposes of the
25 commissioner conducting a criminal history record check. The
26 commissioner shall obtain and receive criminal history information
27 from the Department of Justice and the Federal Bureau of
28 Investigation pursuant to Section 22101.5.

29 (c) This section shall not be construed to prevent a licensee from
30 engaging in the business of a finance lender through a subsidiary
31 corporation if the subsidiary corporation is licensed pursuant to
32 this division.

33 (d) For purposes of this section, “subsidiary corporation” means
34 a corporation that is wholly owned by a licensee.

35 (e) A new application shall not be required for a change in the
36 address of an existing location previously licensed under this
37 division. However, the licensee shall comply with the requirements
38 of Section 22153.

39 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
40 commissioner may by rule require an application to be made

1 through the Nationwide Mortgage Licensing System and Registry,
2 and may require fees, fingerprints, financial statements, supporting
3 documents, changes of address, and any other information, and
4 amendments or modifications thereto, to be submitted in the same
5 manner.

6 (g) Notwithstanding any other law, the commissioner may by
7 rule or order prescribe circumstances under which to accept
8 electronic records or electronic signatures. This section shall not
9 require the commissioner to accept electronic records or electronic
10 signatures.

11 (h) For purposes of this section, the following terms have the
12 following meanings:

13 (1) “Electronic record” means an initial license application, or
14 material modification of that license application, and any other
15 record created, generated, sent, communicated, received, or stored
16 by electronic means. “Electronic records” also includes, but is not
17 limited to, all of the following:

18 (A) An application, amendment, supplement, and exhibit, filed
19 for any license, consent, or other authority.

20 (B) A financial statement, reports, or advertising.

21 (C) An order, license, consent, or other authority.

22 (D) A notice of public hearing, accusation, and statement of
23 issues in connection with any application, license, consent, or other
24 authority.

25 (E) A proposed decision of a hearing officer and a decision of
26 the commissioner.

27 (F) The transcripts of a hearing and correspondence between a
28 party and the commissioner directly relating to the record.

29 (G) A release, newsletter, interpretive opinion, determination,
30 or specific ruling.

31 (H) Correspondence between a party and the commissioner
32 directly relating to any document listed in subparagraphs (A) to
33 (G), inclusive.

34 (2) “Electronic signature” means an electronic sound, symbol,
35 or process attached to or logically associated with an electronic
36 record and executed or adopted by a person with the intent to sign
37 the electronic record.

38 (i) The Legislature finds and declares that the Department of
39 Business Oversight has continuously implemented methods to
40 accept records filed electronically, and is encouraged to continue

1 to expand its use of electronic filings to the extent feasible, as
2 budget, resources, and equipment are made available to accomplish
3 that goal.

4 SEC. 8. Section 23005 of the Financial Code is amended to
5 read:

6 23005. (a) A person shall not offer, originate, or make a
7 deferred deposit transaction, arrange a deferred deposit transaction
8 for a deferred deposit originator, act as an agent for a deferred
9 deposit originator, or assist a deferred deposit originator in the
10 origination of a deferred deposit transaction without first obtaining
11 a license from the commissioner and complying with the provisions
12 of this division. The requirements of this subdivision shall not
13 apply to persons or entities that are excluded from the definition
14 of “licensee” as set forth in Section 23001. This division shall not
15 be construed to require the commissioner to create separate classes
16 of licenses.

17 (b) An application for a license under this division shall be in
18 the form and contain the information that the commissioner may
19 by rule require and shall be filed upon payment of the fee specified
20 in Section 23006.

21 (c) A licensee with one or more licensed locations seeking an
22 additional location license may file a short form license application
23 as may be established by the commissioner pursuant to subdivision
24 (b) of this section.

25 (d) Notwithstanding any other law, the commissioner may by
26 rule or order prescribe circumstances under which to accept
27 electronic records or electronic signatures. This section shall not
28 require the commissioner to accept electronic records or electronic
29 signatures.

30 (e) For purposes of this section, the following terms have the
31 following meanings:

32 (1) “Electronic record” means an initial license application, or
33 material modification of that license application, and any other
34 record created, generated, sent, communicated, received, or stored
35 by electronic means. “Electronic records” also includes, but is not
36 limited to, all of the following:

37 (A) An application, amendment, supplement, and exhibit, filed
38 for any license, consent, or other authority.

39 (B) A financial statement, reports, or advertising.

40 (C) An order, license, consent, or other authority.

1 (D) A notice of public hearing, accusation, and statement of
2 issues in connection with any application, license, consent, or other
3 authority.

4 (E) A proposed decision of a hearing officer and a decision of
5 the commissioner.

6 (F) The transcripts of a hearing.

7 (G) A release, newsletter, interpretive opinion, determination,
8 or specific ruling.

9 (H) Correspondence between a party and the commissioner
10 directly relating to any document listed in subparagraphs (A) to
11 (G), inclusive.

12 (2) “Electronic signature” means an electronic sound, symbol,
13 or process attached to or logically associated with an electronic
14 record and executed or adopted by a person with the intent to sign
15 the electronic record.

16 (f) The Legislature finds and declares that the Department of
17 Business Oversight has continuously implemented methods to
18 accept records filed electronically, and is encouraged to continue
19 to expand its use of electronic filings to the extent feasible, as
20 budget, resources, and equipment are made available to accomplish
21 that goal.